



THE ARMY LAWYER

D A PAMPHLET 27-50-8 HEADQUARTERS, DEPARTMENT OF THE ARMY, WASHINGTON, D. C.

THE SAGA OF MANEY AIRCRAFT OR "Sound and Fury Signifying Something"

By: Captain Richard C. Bruning, JAGC, Procurement Law Division,
The Judge Advocate General's School

The conflict between the Armed Services Board of Contract Appeals (ASBCA) and the Court of Claims over jurisdiction under the Standard Government Contract "Disputes" clause has again come to the limelight with the recent decision handed down by the Court of Claims in *Maney Aircraft Parts, Inc. v. The United States*, Docket No. 191-70, 20 June 1973. Actually the same case has now been before the ASBCA twice and the Court of Claims twice, with the most recent decision ostensibly requiring at least one more stop in each forum.

Maney Aircraft, probably more than any other case in recent history, exemplifies the conflict of opinions and highlights the arguments between the Court and the ASBCA on the question of timeliness of appeal. The standard Government contract "Disputes" clause states that a contractor may appeal a Contracting Officer's adverse final decision to the procuring agency's contract appeals Board by mailing or otherwise furnishing his notice of appeal within thirty days after receipt of the Contracting Officer's decision. In *Maney Aircraft*, the adverse final decision arrived at the contractor's plant on Saturday, and was received by one of the company's accountants. The letter of the Contracting Officer was not brought to the attention of an authorized official of the contractor until the next business day (Monday). Contractor's

notice of appeal was mailed 31 days after the initial receipt on Saturday.

The ASBCA ruled that the final decision was in fact received by contractor's employee at the contractor's regular place of business on Saturday, thus making the notice of appeal untimely by one day. Accordingly, the appeal was dismissed. (*Maney Aircraft Parts, Inc.*, ASBCA 14363, 70-1 BCA 8076 (14 January 1970)).

Undaunted, the contractor took his appeal to the Court of Claims. The Court of Claims found no error with the findings of fact of the Board, and in effect affirmed the ASBCA's ruling that the notice of appeal having been filed 31 days after receipt by contractor was untimely, *Maney Aircraft Parts, Inc. v. The United States* [197 Ct. Cl. 159 (21 Jan 72), 453 F.2d 1260 (1972)]. The rub of the issue between the ASBCA and the Court of Claims begins in the latter part of the Court's opinion where the Court points out to the Board that it (the Board) is not powerless to waive or extend the 30-day period specified in the contract. The Court reaffirmed its stand taken in the previous cases of *Moran Bros. Inc. v. The United States*, 171 Ct. Cl. 245 and *Maitland v. The United States*, Ct. Cl. No. 74-62, where it held that such time limits (as the Disputes clause 30-day rule) are not jurisdictional and may be waived in proper cases within the sound discretion of the Board. Since the *Maney* case was a "close case," the

TABLE OF CONTENTS

- 1 The Saga of Maney Aircraft
- 5 Nonappropriated Fund Members
- 7 SJA Spotlight - USMA
- 11 JA Manpower Requirements
- 13 Time Sheets
- 14 Navy JAG Corps Reorganization
- 15 Have Gavel: Will Travel
- 16 Judiciary Notes
- 17 Claims Items
- 18 Legal Assistance Items
- 20 Military Justice Items
- 20 Reserve Affairs Notes
- 22 JAG School Notes
- 22 TJAGSA - Schedule of Courses
- 23 Personnel Section
- 28 Current Materials of Interest

The Judge Advocate General

Major General George S. Prugh

The Assistant Judge Advocate General

Major General Harold E. Parker

Commandant, Judge Advocate General's School

Colonel John Jay Douglass

Editorial Board

Colonel William S. Fulton, Jr.

Lieutenant Colonel John L. Costello

Editor

Captain Stephen L. Buescher

Administrative Assistants

Mrs. Helena Daidone

Miss Dorothy Gross

The Army Lawyer is published monthly by The Judge Advocate General's School. By-lined articles represent the opinions of the authors and do not necessarily reflect the views of The Judge Advocate General or the Department of the Army. Manuscripts on topics of interest to military lawyers are invited to: Editor, The Army Lawyer, The Judge Advocate General's School, Charlottesville, Virginia 22901. Manuscripts will be returned only upon specific request. No compensation can be paid to authors for articles published. Funds for printing this publication were approved by Headquarters, Department of the Army, 26 May 1971.

Court felt justified in permitting the plaintiff to apply to the ASBCA for consideration of such a discretionary waiver. Therefore, instead of dismissing the appeal as the ASBCA had done, the Court of Claims ordered that the proceedings be suspended for a ninety (90) day period so that the plaintiff could seek a discretionary waiver from the Board.

This decision, for the first time, positively informed the ASBCA that the Board has, in the Court's opinion, jurisdiction to waive a contractor's failure to comply with the 30-day appeal period. It did not, however, give any standards or guidelines by which the Court would determine whether or not the ASBCA abused its discretion. For that matter, since the Court did not direct the Board to exercise its discretion, but rather only "suggested" it, the question was left open whether the Court would determine if the Board did or did not abuse its discretion.

In any event, the Plaintiff again returned to the ASBCA requesting the Board to waive the 30-day requirement. The ASBCA was prompt in responding to the Court stating that in matters of substantive law, the Board has unquestionably followed the Court's rulings, but in the *Maney* case, it must respectfully refuse to follow the Court's "suggestion" to exercise its discretion. The Board pointed out that it gained its authority to decide appeals on their merit from the Board's Charter and the "Disputes" clause of the contract under appeal. In operating under the charter and the clause, the Board pointed out it has never held that it had the discretion to waive the 30-day period. Furthermore, since the creation of the ASBCA, both the Charter and standard Disputes clause have been revised several times, but no change was ever made as to its authority involving timely appeal. Since there has been absolutely no indication from the Secretary that the Board is not interpreting its authority as intended by the Secretary, the Board was unwilling to reverse its position on untimely appeals. Therefore, the petition for discretionary waiver of the contractual time limit was denied and the re-

instated appeal dismissed. (*Maney Aircraft Parts, Inc.*, 72-1 BCA 9449 (28 April 1972))

The court had not ordered the Board to change its mind, but rather asked the Board to consider changing its mind. The Board flatly refused to do so. This conflict now left the area uncertain as to the next step in the litigation. If the plaintiff took his case back to the Court of Claims, would the Court simply enter final judgment for the contractor? The Supreme Court has indicated in *United States v. Carlo Bianchi and Company, Inc.*, 373 US 709, and *United States v. Anthony Grace and Sons, Inc.*, 384 US 424, that this would be permissible where a Board has not been willing to provide available administrative remedies. Likewise, the Court of Claims could now feel they had the right, if not the obligation, to finally decide the entire question of timeliness, and if waiver was necessary in this case, also decide the case on its merits. Lastly, the Court could finally decide the timeliness issue and return the case to the Board, ordering a decision on the merits. New ammunition had been added to the Court's arsenal since their 21 January 1972 opinion. On 29 August 1972, Congress enacted Public Law 92-415, 86 Stat. 652, amending 28 USC § 1491, expanding the Tucker Act to give the Court of Claims "the power to remand appropriate matters to any administrative or executive body or official with such direction as it may deem proper and just." It would seem that this law would positively give the Court the authority to specifically order the Board to take any action the Court wanted.

Considering the positive actions the Court could take, the newly created power they had been given, and the specific and hardened stand the Board has consistently taken on the timeliness issue, one is left with a feeling of emptiness and frustration with the most recent *Maney Aircraft Parts, Inc. v. The United States*, # 191-70. On 20 June 1973, the Court of Claims, acting on the *Maney* appeal, remanded (under its newly acquired authority) the case to the ASBCA with directions to exercise its (the Board's) discretion as to

whether or not the plaintiff had shown good cause or justifiable excuse, under all the facts and circumstances of the case, for failing to file its appeal within the 30-day time limit. Therefore, the proceedings in the court were again suspended for 90 days pending action by the Board.

The case adds nothing new in legal reasoning to the controversy, except an enlightened dissenting opinion by Judge Nichols. The majority of the Court seems to realize that the Board does not believe it has the power to waive the 30-day time limit, but they simply reiterate their prior *Maney* opinion that the Board actually does have such authority. They present more cases on the point, *Venneri v. United States*, 180 Ct. Cl. 920 (the disputes clause is contractual rather than jurisdictional), *Schlesinger v. United States*, 181 Ct. Cl. 21 (Board in its discretion could waive the 30-day requirement for good cause), and *Tapper v. United States*, 198 Ct. Cl. 72 (Government's rights under clause do not vest until the Board refuses to take jurisdiction because of untimeliness), but fail to answer the Board's argument that the Secretary never intended to authorize the Board to exercise discretion on the point. The majority does not present guidelines in which the Board is to exercise its discretion, but rather is told to simply consider all facts and circumstances and arrive at a decision that it considers fair, just and equitable. Therefore, little has changed by this decision except that the contractor now has a Court order directing the Board to exercise the discretion the Board says it does not have.

The most interesting aspect of the *Maney* case lies in Judge Nichols' dissenting opinion. While initially recognizing that the Board's personal opinion that they have no discretion has little merit in light of the opposite decision of the Court, Judge Nichols emphasizes that perhaps the Board is correct when it says the Service Secretaries never intended the Board to exercise its discretion. Because the Board was created to act for the Secretary, the Board operates under the constant scru-

tiny of the Secretary. Furthermore, the Secretaries have constantly acquiesced in the rulings of the Board concerning the appeal period. Therefore, it can be concluded that the Board does not have the authority to exercise its discretion since that authority was never intended by the Secretaries.

As Judge Nichols observes, the Court of Claims would look rather ridiculous if it rules that Secretaries intended one thing, and later the Secretaries take a contrary position.

Besides this reasoning, and what should be obvious, is that regardless of whether the Board is "suggested" or "ordered" to exercise its discretion, any "discretion" by the Board will be against the contractor. If the Court wishes to establish a precedent by forcing the Board to act, it would seem they could have picked a stronger case to make their point. The facts of *Maney* are such that the Board can easily justify denying the appeal again, even if "discretion" is exercised. The contractor, then, has really only received from the Court another chance to appeal to the ASBCA and the Court of Claims.

If nothing else, all this "sound and fury" should signify to someone that a prompt, constructive, practical approach is needed to clear the air, and speed up disposition of cases involving the 30-day filing rule.

As previously mentioned, the Court of Claims could effectively argue they have the jurisdiction to make a final decision on the timeliness issue, since the Supreme Court in *United States v. Anthony Grace and Sons*, 384 US 424 (1966) noted that the contractor need not exhaust his administrative procedure, if the Board has demonstrated this it is unwilling to provide available administrative remedies. It is possible that the court does not wish to take this step, for then, as Judge Nichols suggests, the Court could find themselves in an awkward position, in the event the Service Secretaries positively state their

Presently, however, there seems little agreement among the Secretaries as other agency intentions.

Boards are lining up behind either the position taken by the Court of Claims, or that taken by the ASBCA. For example, the Department of Transportation Board (*SWH Company*, 72-2 BCA 9570) and the Corps of Engineer Board (*West Coast Dredging*, 72-1 BCA 9461) have both followed the "discretionary" holding of the Court while the General Services Administration Board (*Grunley-Walsh Construction*, 72-2 BCA 9687) and the Postal Service Board (*Tapper and Associates*, 70-1 BCA 8253) have both followed the ASBCA. Therefore, it would seem the most positive approach lies in the grasp of the Service Secretaries, and especially, the Secretary of Defense. If the 30-day rule is to be followed to the letter with no discretion for waiver within the power of the Board, the Charter of that Board should be amended to so provide. Even if discretion is to be exercised, as determined by the Secretary, an amendment to the Charter would seem appropriate. To leave the matter as it stands only creates uncertainty among contractors and contracting officers which results in wasted time and money in expensive appeals. Certainly cases like *Maney Aircraft* and *Tapper and Associates*, both having been appealed back and forth between the Boards and the Court of Claims four times in the last three or four years without a decision as to whether their case may be heard on the merits, and, if so, by whom, is a deplorable state of affairs. A contractor who enters into a government contract containing a disputes clause which requires him to continue to work while his dispute is handled administratively and judicially, is entitled to a procedure less expensive as well as more effective and certain than has occurred in *Maney* type cases.

While "ping-pong diplomacy" may be the current thing in international relations for the easing of tensions, it does little in the settlement of disputes when the contractor is the ball in the game being played between the Court of Claims and the ASBCA.

NONAPPROPRIATED FUND MEMBERS

By: CPT Gary W. Lunter, Tort Branch, Litigation Division, OTJAG

The Federal Tort Claims Act (FTCA) waives the sovereign immunity of the United States for liability involving the tortious conduct of an employee of the United States who is acting within the scope of his employment. 28 U.S.C. § 2671 defines the term "Federal agency" to include independent establishments of the United States and corporations primarily acting as instrumentalities or agencies of the United States. With respect to the liability of the United States for the torts of nonappropriated fund employees, the official position of the policymakers since the case of *Holcombe v. United States*¹ has been that nonappropriated fund instrumentalities are Federal agencies within the meaning of section 2671.² Therefore, the United States is liable under FTCA for the torts committed by nonappropriated fund employees acting within the scope of their employment.

The purpose of this article is to briefly consider the problems surrounding the use of nonappropriated fund property by fund members both from the standpoint of the liability of the United States and from the standpoint of the liability of the fund member. Department of Army Circular 230-7, 26 August 1958, terminated the requirement that nonappropriated fund activities (NAF) maintain liability insurance and provision was made for payment from NAF monies for tort claims arising out of NAF activities. The prohibition against purchasing liability insurance is continued in paragraph 2-20 of Army Regulation 230-1. In light of this insurance prohibition the central question is: What are the circumstances in which the United States will assume liability for the tortious conduct of NAF members?

Department of Army Circular 230-10, 22 January 1959, states that members of those nonappropriated fund activities whose operations are conducted on a membership basis will be provided liability protection equal to that of nonappropriated fund employees. Para-

graph 12-2 of Army Regulation 27-20 provides for payment of claims from nonappropriated funds for acts or omissions of nonappropriated fund employees and, *under certain circumstances, members or other authorized users of nonappropriated fund property* (emphasis added), or otherwise caused by a nonappropriated fund activity. Paragraph 12-4 of AR 27-20 requires that NAF Property must be used in the manner and for purposes authorized by 1. Army Regulations, 2. the fund's charter or constitution, and 3. the by-laws and other regulations of the fund. Therefore, the policy of the Department of the Army is to administratively settle tort claims arising out of the authorized use of nonappropriated fund property.

The United States Army Claims Service has, however, used the authority in paragraph 12-2 of AR 27-20 sparingly. As a consequence, payment of nonappropriated fund claims based *solely* (emphasis added) upon the acts of members or other authorized users of NAF property have been rare. Instead, liability is usually based on the negligence of Government or fund employees acting within the scope of employment in failing to properly maintain or otherwise control the nonappropriated fund property being utilized at the time of incident giving rise to the claim against the United States.

While there is a policy within the Army to use nonappropriated funds to pay administrative claims arising from the acts or omissions of NAF members, the courts have been unwilling to impose judicial liability on the United States for the acts or omissions of fund members. For example, in *United States v. Hainline*³ the Tenth Circuit held that in an action under the FTCA to recover damages for injuries sustained when plaintiff's automobile was struck by an airplane flown by an Air Force officer, the fact that the officer was off-duty and was flying an airplane owned by the Aero Club at McConnell Air Force Base

for his own personal benefit and enjoyment indicated that he was not acting within the scope of his employment with the United States. Furthermore, the Court stated that an Air Force regulation which made NAF members employees of the United States when they were using NAF property in the manner and for the purpose provided in the constitution or by-laws of the activity, could not make NAF members employees in determining substantive liability under the FTCA. The Court specifically stated that there is no federal rule to the effect that a NAF member is an employee under the FTCA.

In *Brucker v. United States*⁴ the plaintiff brought suit against the Government for injuries sustained in a crash of a plane in which he was a passenger, which plane belonged to the Castle Air Force Base Aero Club. The Ninth Circuit held that evidence in the case sustained the finding that the pilot of the airplane, who was a club member, had not been acting as an agent of the Club and thus was not an agent of the United States at the time of the flight. The court was of the opinion that merely because the Government encouraged the club activity and derived a benefit from it, liability could not be imposed for the acts of persons not servants of the United States. The court, therefore, sustained a lower court finding that no master-servant relationship existed between the club and the pilot involved in the crash since the club neither possessed nor exercised any power to control the conduct of the pilot's flight.

Throughout the years since the first Judiciary Act the Attorney General of the United States and his representatives have appeared on many occasions in actions between private persons where the interests of the United States were involved. This representation is well recognized in light of the need to protect the interests of the United States.⁵ Therefore, representation will generally be provided to private individuals where the United States has either a potential pecuniary or policy interest in the outcome of the suit against the individual.

While the Department of Justice has been extremely cooperative in affording representation when requested by the Army, it is the *Department of Justice that makes the final determination whether legal services will be provided*. Because NAF members are usually not agents of the fund, there may be some question whether these individuals would be represented by the Attorney General or his representative. Furthermore, representation is usually declined where the individual is adequately protected by his own liability insurance, in which the United States would assist in getting the insurer to afford proper representation. In any event, it must be remembered that even when the Government represents an individual, it does not become a party to the action.⁶ Therefore, a judgment that is obtained will have to be borne by the individual himself or his insurer.

Paragraph 4-5b of AR 230-1 authorizes the payment for private representation from non-appropriated funds to fund a member who is sued individually when the Judge Advocate General or his designee determines that the fund property was being used in the manner and for the purposes authorized. The basic policy criteria for determining whether non-appropriated funds should be used to pay for private representation is whether such payment would substantially serve the best interests of the United States and the Department of the Army. More specifically, it should be kept in mind that the payment is made only from nonappropriated funds and only when nonappropriated fund property is utilized. Additionally, the previously mentioned requirements of paragraph 12-4 of AR 27-20 must be met before NAF monies can be used to fund private representation. Overall, the expressed willingness of the fund itself to pay for private representation can be a key factor, in an otherwise close case, in the determination of the Judge Advocate General.

Further guidelines other than the above mentioned cannot be enumerated since the language of paragraph 12-5b indicates that the determination of the Judge Advocate Gen-

eral is in essence discretionary and depends on the total facts and circumstances of each case in which a determination is requested.

The alternative to relying on representation by the Department of Justice or the use of NAF monies with the approval of the Judge Advocate General, is the purchase of private liability insurance by the member out of his own pocket. Where the cost of the premiums for such insurance is not prohibitive, the use

of the private insurance alternative would seem to be the most practical.

Footnotes

1. 277 F. 2d 143 (4th Cir. 1960).
2. Noone, Legal Problems of Nonappropriated Funds, p. 46 (1968).
3. 315 F. 2d 153 (10th Cir. 1963).
4. 388 F. 2d 427 (9th Cir. 1964).
5. See Booth v. Fletcher, 101 F. 2d 676 (D.C. Cir. 1938).
6. Payne v. McKee, 153 F. Supp. 932 (E.D. Va. 1957); Bland v. Britt, 271 F. 2d 193 (4th Cir. 1959).

SJA SPOTLIGHT - UNITED STATES MILITARY ACADEMY

The mission of the U. S. Military Academy is "to instruct and train the Corps of Cadets so that each graduate will have the qualities and attributes essential to his progressive and continued development throughout a career as an officer of the Regular Army."

The Department of Law is almost as old as the Academy itself, having had its origin a century and a half ago when, by the Act of Congress of April 14, 1818, there was provided "one chaplain stationed at the Military Academy at West Point, who shall be Professor of Geography, History, and Ethics." Although the regulations in effect at that time prescribed that the "course of Ethics shall include natural and political law," there is no record that any law instruction was given before 1821, when Vattel's Law of Nations was adopted as a textbook in International Law. Constitutional Law was also first taught at about the same time. A separate department for instruction in law was created by the Act of June 6, 1874, and an officer of The Judge Advocate General's Department was detailed as Professor of Law. Except for the period 1896-1910, during which the Departments of History and Law were reunited, the latter has, since its creation almost ninety years ago, remained a separate department and has been headed by such distinguished military lawyers as Lieber, Winthrop, Davis, Bethel and Kreger.

In addition, since 1961, the Staff Judge Advocate's office has been merged with the De-

partment of Law. Thus, Judge Advocates assigned to West Point simultaneously fill Legal and Academic positions. Responsibilities in the two areas are coordinated so that the experience gained in each compliments the other. While the demand on one's time is great, the combination of practical and intellectual challenge makes the assignment to West Point a professionally broadening one.

The Department of Law and Office of the Staff Judge Advocate is headed by the Professor of Law who is permanently appointed pursuant to statute. The Deputy Head of the Department is a permanently appointed Associate Professor of Law who also is the Staff Judge Advocate. In addition, there will shortly be one other permanently appointed Associate Professor of Law. All other officers, approximately eighteen in number, are assigned for regular three-year tours of duty.

Organizationally, the Department is divided into the Civil Law and Military Law Divisions. Each division has responsibility for both legal services and academic functions relating to its area.

ACADEMIC ACTIVITIES

It is the instruction performed by the officers of the Department that makes an assignment to the U. S. Military Academy unique. As mentioned earlier, all officers assigned to the Law Department undertake teaching duties. Initially, all officers are designated as

Instructors of the Basic Law course. They teach two hours each day. Each instructor has responsibility for four sections, each containing approximately 15 cadets. In addition, each instructor has responsibility for preparation of some part of the course textual and examination material. After gaining considerable experience, the officer may be appointed as an Assistant Professor of Law with supervisory responsibility for course preparation. In addition, some officers are assigned to teach the three elective courses offered in International and Business Law.

The usual case and textbook methods of instruction employed generally at civilian law schools are used in the teaching of the subject at the Academy. However, because of the unique purpose and scope of the course, these means are supplemented by lectures, training films on closed circuit television, and other types of instruction such as visual aids and multi-media presentations. Texts and supplementary materials prepared by members of the instructional staff are in current use. Close liaison is maintained with the Office of The Judge Advocate General and with The Judge Advocate General's School. Representatives of the Department attend meetings of various professional legal societies.

Several purposes are served by the study of Law at the Military Academy. The student is introduced to a rigorous course in the accurate analysis of fact in light of guiding principles, so often known as "legal reasoning." The course assists in the development of a sense of justice and of a capacity for responsible judgment in future officers in the Armed Forces. The proper administration of justice under the Uniform Code of Military Justice requires that each officer have a knowledge of the fundamental principles of law taught in this course.

The Basic Course: The major objective of the basic course in law is the preparation of graduates to discharge their responsibilities connected with the administration of military justice with skill, understanding and fairness,

and to perform properly other duties of a legal or quasi-legal nature, such as the conduct of investigations and acting as members of various administrative boards. An additional purpose of the instruction in law is to equip each cadet with a sufficient knowledge of elementary legal principles to enable him to keep his own personal affairs in order. A broad purpose throughout all sub-courses is to help develop the cadet's ability to analyze, reason, reach logical conclusions and to communicate effectively, both orally and in writing. The course is given to all cadets of the Second Class (Juniors). It is divided into the following sub-courses:

a. *Introduction to Law*—An examination of the principal theories of law which have been set forth by prominent legal philosophers of Western civilization, as well as an introduction to the nature and application of law and the functions of some of the traditional legal subjects including contracts, torts, and property.

b. *Constitutional Law*—A detailed study of the constitutional concepts and court decisions on United States Government including Legislative, Judicial, and Executive powers and limitations; individual rights under the Constitution; the defense establishment and judicial review of the military relationship with the executive in his various capacities.

c. *Military Criminal Law*—A study of punishments, the component parts of crimes and offenses, criminal responsibility, selected articles of the UCMJ, jurisdiction, pretrial matters, nonjudicial punishment and court-martial procedures. Basic theories and practical procedures are joined to enhance the cadet's ability to discharge his future responsibilities in military law.

d. *Introduction to International Law*—An overview of the nature, sources and function of international law principles with emphasis on basic principles, the law of war, and the Geneva and Hague Conventions.

e. *Military Administrative Law*—An examination of the concept of administrative due

process, the conduct and review of board proceedings, personnel actions such as elimination of officers and enlisted men, conscientious objectors, line of duty and report of survey investigations, and the administrative organization of the Army and status of military personnel.

Elective Courses: The Department of Law currently offers to First Class cadets (Seniors) two elective courses in International Law: *International Law* and *Military Aspects of International Law*. Commencing with academic year 73-74, a third elective in *Business and Procurement Law* will be offered.

International Law is a survey course of one term, covering the major concepts in this field. A commercial text, *International Law* by Bishop is used. The purpose of the course is to familiarize the cadet with the nature and functions of international law and broad areas of substantive principles, such as agreements, recognition, jurisdiction, immunities, nationality, law of the sea and air, state responsibility, and the numerous legal problems arising out of use of force. Approximately 100 cadets per year elect the *International Law* course, which is taught by two instructors.

Military Aspects of International Law is a seminar offered in the second term to the highest ranking 15-20 cadets. Both a commercial text and materials prepared by the Department are used. The seminar provides cadets the opportunity of examining in detail, past, current and hypothetical international conflicts involving actual or potential use of force, with a view to understanding the application of International Law norms to the attempted resolution of such conflicts. The cadets perform individual and collective research followed by written and oral presentations, concerning 25 to 30 actual or hypothetical problems. The students are required to isolate and analyze the salient facts, legal and political issues and the principles of International Law applicable to the management of each of the individual conflicts studied.

Business and Procurement Law is a one term course using a commercial text. This elective provides the cadets with an understanding of fundamental and advanced principles of business and procurement law on both theoretical and practical levels. The Business Law portion of the course serves as a foundation for the Procurement Law portion and covers the UCC, creditor's rights, agency, business organization and property law. A problem-oriented method of instruction is emphasized. The Procurement Law segment highlights the major principles of Government contracting and responsibilities of contracting officers and commanders in this area of the law. A high degree of cadet interest in this course is expected.

The elective committee provides on-going planning for updating current electives and for future electives development.

The value and success of the course in law may best be judged by the results attained. Although it is not a principal mission of the Military Academy to train legal personnel for the Armed Services, many of its graduates have later attended civilian law schools and have almost invariably ranked in the highest echelons of their respective classes. The major benefit of the course, however, is attested to by the numerous reports received each year which indicate that the Junior officers immediately find that the knowledge of law gained as cadets pays large dividends in facilitating the proper conduct of their official duties and personal affairs.

LEGAL SERVICES ACTIVITIES

The Department fulfills the normal Staff Judge Advocate functions primarily in the Military Justice, Administrative Law, Legal Assistance, Procurement and Claims areas.

Military Justice: The Superintendent of the U. S. Military Academy exercises General Court-Martial jurisdiction over the Corps of Cadets, the approximately 900 officers and men of the Staff and Faculty and over the officers and men of the 1st Battalion, 1st

Infantry. The Commander of the 1st Battalion, 1st Infantry, exercises Special Court-Martial jurisdiction over the 1150 officers and men of that unit. During the summer training period, the number of troops under this commander doubles due to augmentation by combat and support units from throughout CONUS. The military justice caseload increases dramatically during this summer augmentation.

Judge Advocates are detailed to serve as Summary Courts-Martial and Article 32 Investigating Officers. Those certified as part-time Military Judges are utilized to try Special Courts-Martial. Officers of the Department are active in giving instruction on a variety of legal subjects, including military justice refresher courses for departing officers and cadets involved in summer training and courses to installation personnel on Military Justice, Code of Conduct, Law of War and legal considerations for Military Police.

As one might expect, West Point and vicinity is not a high crime area. Hence, much of the effort in the Military Justice area is directed toward maintaining the relatively peaceful record and reputation of the entire community. Emphasis is placed on giving each case careful and individual consideration, particularly at the preventive and counselling stage.

Administrative Law: This activity encompasses all reservation functions not otherwise provided. The actions processed by the officers having responsibility for Administrative Law range from reviews of reports of survey and line of duty determinations to resolution of tax problems relating to special activities peculiar to West Point. In addition, practice before administrative boards is highly developed due to the procedures utilized in separating cadets. The Department provides officers who act as recorder and respondent's counsel before such boards convened under specific regulations and AR 15-6.

Claims: West Point has primary claims responsibility for New York State, excluding New York City and Long Island. There are two officers assigned to pursue claims in the property and medical care recovery areas. These claims officers are involved in investigations, negotiations, settlement agreements, and litigation reports. Tort claims, Chapter 11 claims and related recoveries are processed by a civilian attorney and four other civilian employees.

Legal Assistance: There are four officers assigned to provide legal assistance to cadets and military personnel and dependents assigned to West Point. In addition, the area surrounding West Point is popular with retired military personnel, who add to the legal assistance caseload. The number and nature of legal assistance problems are quite similar to that of any other major installation. However, the legal assistance problems of approximately 4,000 cadets present a distinguishing factor.

Procurement: One officer has responsibility for procurement law matters. He provides legal review for both appropriated and non-appropriated contracts. In addition, this officer sits on boards of contract awards and prepares memoranda of law in disputed cases. The subject matter of contracts is unique at West Point. Contracts for cadet uniforms and equipment and for facilities peculiar to an institution of higher education are regularly awarded.

The combination of academic and legal services duties places a considerable burden upon each of the officers assigned to the Department of Law. But there can be little doubt that a tour of duty at the United States Military Academy, West Point, the oldest continuous active Army post, is intellectually stimulating, and both professionally and personally rewarding.

JA Manpower Requirements: "FOOEY" Calls 'Em As It Sees 'Em

"FOOEY" is the name of a computer program designed by the Department of Developments, Doctrine and Literature at the Judge Advocate General's School to test the reliability of certain data reported from the field. These data reflect the manpower expenditures of JAGC officers assigned in military justice. This article is a report on the findings of "FOOEY".

The question which the program answers is: "True or false: The SJA knows how his lawyer resources are being used in the office." For those who think the answer is "True," the next few paragraphs were written. "FOOEY" makes no judgment on the need to know what is going on in the office, but merely reports that awareness is low in most JA shops around the world. The letter of Colonel Warren L. Taylor (Army Lawyer, March 1973, p. 13) points to several reasons one might want to know what the personnel in a JA shop are doing. For example, in preparing a Schedule X, the SJA with a PCF should know the manpower cost of the large number of chapter ten's in order to justify a fair staffing level. How well informed are we on the manpower costs of chapter ten's? "FOOEY" took the reported manpower expenditures from the field, and divided them by the number of actions occurring within the jurisdiction during the period, and arrived at an average manpower cost at each installation. Here are the results for 30 of the installations considered, listed by a number rather than a name in order to avoid misleading comparisons by the analysts or the readers:

In- stalla- tion No.	Chap. Tens	Man- power Ex- pended (man years)	Aver. Days	Time per Hours	Chap. Ten Min.
1	2168	.840	0	0	45
2	1155	.500	0	0	50
3	464	1.000	0	4	08
4	793	.630	0	1	32
5	41	.170	0	7	58
6	5	.400	19	1	36

In- stalla- tion No.	Chap. Tens	Man- power Ex- pended (man years)	Aver. Days	Time per Hours	Chap. Ten Min.
7	2818	.120	0	0	5
8	2524	.800	0	0	37
9	2097	.600	0	0	33
10	8	.026	0	6	14
11	5	.819	39	2	30
12	60	.250	1	0	0
13	1350	.784	0	1	7
14	2360	1.680	0	1	22
15	3	.380	30	3	12
16	700	.300	0	0	49
17	19	.842	10	5	5
18	1124	1.270	0	2	10
19	105	.980	2	1	55
20	275	.880	0	6	9
21	11	.100	2	1	27
22	1	.146	37	7	41
23	122	1.000	2	1	3
24	270	3.400	3	2	12
25	157	1.300	2	1	13
26	76	1.300	4	3	35
27	231	.500	0	4	30
28	16	1.200	18	0	0
29	10	.500	12	0	0
30	9	.100	2	5	20

These results force the conclusion that the manpower entries were, in most cases, pure guesswork.

The figures came as a by-product of analysis performed at TJAGSA in compliance with a directive from OSD to devise a plan for a separate defense counsel organization in the Department of the Army. One of the major unknowns was the manpower cost of separating the trial and defense functions into two organizations. The methodology was rather simple: certain places have more trouble doing the same work than other places, principally because of problems with transportation, clerical support, judge availability, etc. If there were some basic "ballpark" cost figures which could be increased or decreased to fit the needs of each particular location, then pro-

jected workload of each place could be computed and used as a planning factor for assigning trial and defense counsel. To provide the needed data, TJAG dispatched a TWX to all GCM jurisdictions, requesting data on the number of courts-martial, article fifteen's, and chapter ten's occurring within each jurisdiction during each calendar year 1972, together with many years of JAG effort devoted to each of the several categories called for.

"FOOEY" performed its computations with respect to each category of workload, and in each case as the above figures show the results were unrealistic. Certain adjustments in the courts-martial run had to be made, since not all summary courts should be counted as "real" or "effective" JA workload. Similarly, only a fraction of the article 15's imposed in a jurisdiction generate workload for the JA shop. A combination of techniques produced estimates of the adjustment factors, together with estimates of the degree of their accuracy. For example it was estimated that an average of 2 1/4% of all article 15's come into the JA shop with some kind of requirement for action (such as an interview). If the real figure is as high as 7% or as low as .7% the average number of total article fifteen's will be only slightly affected. The standard deviation will not be affected at all in any meaningful way. Field performance was worst in the article 15 category. The averages and standard deviations of three separate runs are as follows:

	Avg.	Std. Deviation
Courts-martial:	41.01 hours	67.06 hours
Article Fifteen:	17.45	26.75
Chapter Ten:	37.65	69.70

One obvious measure of the reliability of the data is how much the average figure appeals to the intuition. From this point of view, all of the averages seem unrealistic. Another measure is the spread of values around the average. If some of the values were extremely low and others extremely high, then the average figure is fairly inaccurate as a measure of manpower cost, whereas a tight cluster of

values around the average would make it a good predictor. The standard deviation is a good measure of this spread. In the family of "normal" distributions, which generate the familiar bell-shaped curve found so often in nature and in the activities of man, a standard deviation is usually smaller (and often much smaller) than one-third of the average. If it equals the average, it practically destroys the utility of the average as an estimator of anything.

In all cases here, the standard deviation exceeded the average by a substantial amount, thus disclosing the fundamental uselessness of the data. If these disparities are explained by real differences among installations, then there must be something about geography that controls the manpower costs of kinds of JA workload. Since there was no pattern to the divergence (such as by location, PCF, unit mission, etc.), it must be explained by error in making the reports. Quite obviously the reports were put together to meet the one-time requirement imposed by the Judge Advocate General, and many units had no idea of what to report.

Further evidence of this conclusion is the ambiguity of the TWX as to what a "man-year" is. No officer requested clarification or included in the report the particular standard employed. We know that German jurisdictions uniformly used a 260-day manyear, whereas most CONUS manpower accounting systems use fewer days (perhaps 240) for planning purposes. Some of the reporting jurisdictions must have been using a 365-day manyear, slavishly requiring their officers to be on duty on the fourth of July and Christmas day.

As mentioned before, this report does not urge necessarily that JAGC officers *ought* to know how they are spending their time; but rather, "FOOEY" demonstrated that when it is necessary to have such information, it is not available. The proof is that the answers to this inquiry which deserved the Corps' best efforts, were too unreliable to be useful.

Time Sheets

The accurate assessment of attorney workloads is a continuing problem for the Corps. The following is the Navy's solution to this problem as set forth in a note by Rear Admiral Merlin H. Staring, Judge Advocate General of the Navy, in the June issue of "Off The Record."

We have all by now been involved for nearly three months in the pilot phase of the time-accounting system we instituted worldwide on March 1st. I know that all of us have found it to be something of an annoyance to have to keep these records. Some of you have written to me about it. One officer—the sole judge advocate assigned to a command which on paper is supposed to have two lawyers on board—found it particularly frustrating to have to take time from his productive legal work to meet the added administrative burden of keeping a detailed time sheet. I am sure many others have felt the same way about it—so I will share generally the response I made to your spokesman:

Thank you very much for taking the time to write me on April 3d regarding the JAG time-accounting system. I certainly do not regard your comment either as a complaint about your assignment or as a puff for your heavy workload.

I am personally sympathetic with your initial surface reaction to the added administrative annoyance involved in keeping the new time sheets. I finally faced up to the problem myself last Monday—along, presumably, with 799 other Navy judge advocates throughout the world. I will confess to having "wasted" a good two or three hours, that first day, in figuring out exactly how to apply the instructions accurately to the new form, and in puzzling over the exact codes which I should apply to the variety of odd-ball tasks that confront me each day. As you probably found out for yourself, the second day was much easier—and by today, the end of the first week, it has become fairly quick and routine, and less of a preoccupation.

From my letter of March 23d, and from OTR-51, you are already aware of the

considerations that prompted us to adopt this system for a nine-month pilot period. And we didn't do this lightly. From my own personal experience this week, and from our previous short testing period in Norfolk for the month of January, it is strikingly apparent to us that the time-accounting system is going to be an immense help to the JAG Corps as a whole. I find, even at this early date, that it is also going to be a help to me personally. It is giving me a daily perspective on what happens to all those hours after I arrive in the office; and I intend shortly to subject my habits to critical analysis, and to attempt to use my available time more effectively. Perhaps you are a more personally organized individual than I—but I know that I expect to profit from it.

You and I are in essentially comparable personal situations with respect to time-accounting. We are not being monitored by a local judge-advocate superior with a view either to assigning us additional tasks to occupy unused time, or to shifting some of our personal workload to a less-beleaguered colleague. Each of us has the whole bit. I may have a regiment of lawyers to whom I can attempt to delegate everything in sight, but the "whole bit" is still there so far as my time sheet is concerned.

Troublesome and unnecessary as the time sheets may seem at first blush, and resentful as each of us may be of the moments it may take from work at hand to keep them current, we get right down to one basic and overriding fact. As JAG, I am going to be in a highly fortified position, a few weeks or months from now, when I confront the Navy's money and people regarding the adequacy of command and Departmental support for the Navy's legal-services organization. Internally, also, it will enable us to identify and document misplaced judge-advocate assets, and to realign them accordingly. Among other things, it could conceivably mean that judge advocates saddled with a workload like yours will get needed help. I will appreciate your personal cooperation, and that of every judge advocate, in bearing with the system during the pilot period. I am confident that each of us can whittle the additional administrative burden it involves down to the barest

minimum—and I assure you that the slight residual burden will be for a good cause.

To this, I must add my earnest request to each of you that you keep your time sheets accurately and objectively. "Gundecked" reports are not going to do any of us any good in the long run, and it will be only a matter

of time before they stick out like a sore thumb, for what they are. If the Navy's legal resources are maldistributed, it is in our individual and collective interests to detect it and adjust it. This is no time for local parochialism—so, make your entries fairly and honestly, and let the chips fall where they may!

Navy JAG Corps Reorganization

The following note from Rear Admiral Merlin H. Staring, Judge Advocate General of the Navy, on a proposed reorganization of the Navy Judge Advocate General's Corps is reprinted from the June issue of "Off The Record" and should be of interest to Army judge advocates.

A number of the most basic recommendations advanced by the conferees last October—and by others both before and since last fall's conference—dealt with or contemplated a restructuring of existing command lines to give the Judge Advocate General a more effective voice and hand in the management and support of our law centers and legal offices in the field.

The proposal we are advancing contemplates no change in the status or functions of the staff judge advocates of commands or activities such as fleet or type commands or naval stations or air stations—except that directors of law centers would no longer be double-hatted as staff judge advocates to a local commander, as is now the case in some instances. A law center director would have one job—to direct and supervise the operation of his law center. And the law center would continue to be charged with rendering a wide variety of legal services to naval commands and personnel in the geographic area of its cognizance.

The command line of a law center, however, would no longer run to a local commander such as the District Commandant or other local or area commander or coordinator. Instead, the command lines of all law centers would run directly to a single common point immediate-

ly under and answerable to the Chief of Naval Operations for law-center support and administration. The exact terminology is not yet firmly fixed, and is perhaps one of the less important aspects of the matter. For present purposes, however, we are speaking of what we now call law centers as future Naval Legal Support Activities—and of the single management focus under CNO as Commander, Naval Legal Support Activities Command. Most important, for all of us, is the fact that this Commander, Naval Legal Support Activities Command, would be the Judge Advocate General, ordered to CNO under additional-duty orders for purposes of the support and administration of all Naval Legal Support Activities throughout the Navy. JAG's present command line directly to the Secretary of the Navy would remain in existence for purposes of JAG's professional and technical supervision of the rendering of legal services by all uniformed naval systems. JAG would be newly injected into the command line, in other words, only with respect to those concentrations of naval lawyers which would be designated as Naval Legal Support Activities (most of those which we now know as law centers).

We envision a number of advantages in this proposed arrangement. First and foremost, it would create a single management focus for the allocation of financial and personnel support to and among the Naval Legal Support Activities—*dollars*, and *billets*. It would give added flexibility in such allocations and re-allocations, to enable us to meet changing and shifting needs for legal support in various

geographical areas. It would ensure JAG a voice in such decisions—a voice he does not now have as a matter of right, and which he is not always accorded in timely fashion as a matter of courtesy. Furthermore, the proposed reorganization would place all court-martial defense counsel under the direction and authority of the Judge Advocate General as contemplated by the Secretary of Defense in implementation of one of the recommendations of the DoD Task Force on the Administration of Military Justice in the Armed Forces. Should our reorganization proposal receive the CNO and SECNAV approval which we are in process of seeking, it would be submitted to the Secretary of Defense as constituting the plan by which the Navy would accomplish the objective of the Task Force recommendation relating to defense counsel if that recommendation is ordered executed.

We have given an initial formal briefing on the proposal I have described to selected

OPNAV and BUPERS officials who would have responsibilities with respect to it when it is formally presented to CNP, CNO, and the Secretary. We are making some refinements, both to our proposal and to its presentation, as a result of suggestions made and questions asked by members of that first audience. We hope to proceed rapidly to the formal presentation and submission of the proposal to CNO and the Secretary within the next few weeks. Should the proposal be approved, there would be a necessary phase-in period to bring it to full fruition. We feel that it will represent a major improvement in the Navy's efficient utilization of its available legal resources, comparable in importance to the establishment of the JAG Corps itself. All of you have a vital interest and stake in the success of this proposal. We are putting our best efforts behind it here, and we will keep you abreast of our progress.

Have Gavel: Will Travel . . . Air Force Style

By: COL Carl R. Abrams, Chief Judge, Sixth Circuit, USAF Trial Judiciary

The TJAGSA Commandant and I happened to cross paths recently during my circuit-riding. After the usual exchange of war stories that are the inevitable consequence of the meeting of two court-scarred veteran legal eagles, I found myself agreeing to write an article on some of the problems unique to the Air Force trial bench.

The USAF has divided the world into eight judicial circuits. At each circuit office is placed the one or two GCM Military Judges (Trial Judiciary Officers, or "TJO"s) for that circuit. The circuits are divided into districts with Special Courts-Martial Military Judges (Special Trial Judiciary Officers, or "STJO"s) for each district. These judges preside on *all* special courts convened within the Air Force, as well as serving as legal advisors to administrative boards, when time permits. The TJOs also sit on special courts and boards when their docket is slack. Trials are held at the

base where either the accused is located or where the offense occurred, rather than at central "law centers".

The Sixth Judicial Circuit . . . my bailiwick . . . consists of continental Europe, United Kingdom, Africa, western Asia, and The Azores. Within this area are roughly thirty installations at which courts-martial might be convened. We anticipate approximately thirty to thirty-five generals and about one hundred and fifty specials this calendar year. (According to my Army brothers, this total comprises approximately the *monthly* trial docket of the Army in Europe.) I have two STJOs assigned to the circuit; one in Germany and one located in England. I am the only GCM military judge for the entire circuit.

As we are frequently holding trials in Adana, Turkey, Brindisi, Italy, Zaragoza, Spain, etc., obviously getting there is our fore-

most headache. In deference to our penurious employer we utilize commercial air lines only when our docket is so crowded that we cannot make our commitments by waiting for a passing Government flying carpet. One of my brothers recently spent nearly five days' travel time in order to spend three hours in court in Turkey. The time consumed in travel can also be illustrated by the fact that, although I only spent 44 days in court during the first six months of this year, I was TDY for a total of 80 days.

Courtrooms, or rather the lack of such amenities, deserve mention. Only half of the installations in this circuit have facilities that can be classified as courtrooms. We have held trials in ballrooms, classrooms, service clubs and youth centers. (Chapels, so far, have been sacrosanct.) If we feel that the room provided is totally unadaptable to judicial decorum, we advise the local commander that either he will come up with something more suitable or we will change venue. So far we have been able to work out the problem whenever it has arisen.

The appearance of the courtroom is only half the battle. Have you ever conducted a trial in a room located around the corner from the taxiway for a C5-A or the engine test stand for an F-111 fighter? I'm certain that reviewers must be puzzled when they examine a record and find that a particular

court session lasted an hour but only produced two pages of testimony. The record does not reflect the dozen or more pauses of many minutes duration while we twiddled our judicial thumbs waiting for the roar of engines to abate.

Lest you misinterpret what I have stated, let me hasten to assure you that I believe the positive aspects of our judicial practice far outweigh my few carping complaints. From the personal viewpoint, there is not one of us who would prefer to have the trials brought to our home base rather than travel to Athens, London, Madrid and Istanbul, no matter how uncertain our courier flight schedule. The few times I have held trial away from the situs of the crime I have encountered delays caused by the unavailability of witnesses who are first named in testimony during the trial. It is also very picayune to dwell on inadequate courtrooms when I realize that this deficiency exists because of the fortunate circumstance that even an Air Force installation with several thousand military personnel has so few trials as to make the construction of an adequate courtroom unjustified.

As to a comparison of Army and Air Force practice, I believe I can resort to the answer given by a married client when queried as to whether an adulterous relationship was so much better as to justify the risk: "Not necessarily better . . . just different."

JUDICIARY NOTES

From: U. S. Army Judiciary

ADMINISTRATIVE NOTES

a. *Requests for Witnesses.* Staff Judge Advocates of commands outside the United States who need assistance in obtaining the appearance of civilians, who are in the United States, as witnesses at court-martial trials should address electrical messages as follows: US Army Judiciary, //JAAJ-CC//, Nassif Building, Falls Church, Virginia.

b. *Service of COMR Decisions.* Reference is made to paragraph 15-4b(2), AR 27-10, con-

cerning certificates of attempted service. Even though the accused has executed a Request for Final Action form, a certificate of attempted service should be executed and forwarded to HQDA (JAAJ-CC), if he did not sign the receipt on JAAJ Form 18i or 18l or on JAAJ-CC Form 10.

RECURRING ERRORS AND IRREGULARITIES

a. *Pleadings by the Accused.* Numerous cases are arriving at the Judiciary containing

inartful pleadings. Examples of artful pleadings are contained in Appendix 8b, Manual for Courts-Martial, 1969 (rev. ed.). Defense counsel should use the standard format except in those rare cases where it might be inapplicable.

b. *Pretrial Agreement Forms.* A few jurisdictions continue to use one-page forms for pretrial agreements. Such forms preclude the military judge from examining the agreement before sentencing without being exposed to the quantum portion. All staff judge advocates should insist on following the better practice of using multi-page agreement forms that will separate the quantum of punishment from the rest of the agreement.

c. *June 1973 Corrections by ACOMR of Initial Promulgating Orders.*

(1) Failure to reflect verbatim specifications on which the accused was arraigned and

which were not amended during the trial—two cases.

(2) Showing an incorrect service number where it first appeared on the order.

(3) Showing incorrectly "no previous convictions" when in fact the court-martial considered a certain number—two cases.

(4) Showing incorrectly that the sentence was adjudged by a Military Judge.

(5) Failing to show that the pleas of guilty were changed to not guilty—three cases.

(6) Failing to show that the sentence was adjudged by a military judge—three cases.

(7) Failing to show under FINDINGS that a motion for a finding of not guilty as to certain Charges and specifications was granted.

(8) Showing the incorrect signature block in the ACTION.

CLAIMS ITEMS

From: U.S. Army Claims Service, OTJAG

1. Mandatory Inventory. It is again requested that Staff Judge Advocates make an increased effort to insure that all unit commanders within their jurisdiction are aware of the commander's responsibility to protect the personal property of a soldier from theft, damage or loss while the soldier is absent from the unit under other than normal circumstances. This responsibility is not voided by the misconduct of the soldier and it remains the duty of the commander to promptly inventory and safeguard the property of soldiers who are AWOL or confined. Failure of unit commanders to promptly take such action exposes the Government to large claims of questionable validity which are difficult to adjudicate. Commanders should be urged to read paragraph 10-6 of DA Pamphlet 27-19 for more specific information concerning this problem.

2. Prompt Payment of Personnel Claims. Judge advocates are advised that prompt and

efficient claims assistance to military disaster victims is a mandatory requirement under AR 27-20. Recently, a large fire in a USAREUR troop billet resulted in 76 claims against the U.S. Government which were fully paid within several days of the incident. The following actions were taken by the local Claims Judge Advocate and are reported here as guidance for appropriate response in similar situations:

a. Upon learning of the incident, the Claims Judge Advocate called the unit commander and offered claims support. He suggested that the unit take immediate steps to seal off the disaster area with barbed wire and guards to prevent looting, and to begin an inventory of lost, damaged, or destroyed property therein. It was suggested that all potential claimants inventory their property.

b. The finance office servicing the area was contacted and agreed to process the disaster claims vouchers expeditiously.

c. The Claims Judge Advocate and his claims clerk went to the unit area with a supply of DD Form 1842 and DD Form 1845. Each potential claimant was instructed on his right to make a claim and how to fill out the forms. The depreciation schedule was explained and the claimants were assured that payment of meritorious claims would be made expeditiously.

d. Unless a claim was in excess of \$500.00, the substantiating evidence was obtained informally. In doubtful cases, substantiating statements were obtained from the platoon sergeant, platoon leader or the unit claims officer; and any additional documentation considered appropriate within the discretion of the adjudicating authority was also obtained (see paragraphs 11-12, AR 27-20). In cases where the claim was in excess of \$500.00, the procedures required under paragraph 11-11, AR 27-20, were accomplished in an expeditious manner.

e. Signed vouchers were handcarried to finance which was able to provide same-day processing of checks.

f. The Unit Claims Officer picked up settlement agreements at the JA Office and the checks at finance office. When the agreements were signed by the claimants, the checks were tendered.

g. The Unit Claims Officer was furnished one copy of each DD Form 1845 to insure items so indicated were turned in to PDO.

3. Personnel Claims—Motor Vehicle Losses. The deletion of the word "vandalism" in paragraph 11-4(f) of Change 4, AR 27-20, was intended to make both paragraphs 11-4(f) (3) and 11-4(f) (4) uniform. The terminology "other unusual occurrences" is interpreted to include acts of vandalism and the policy with regard to the payment of claims of this type has not been changed.

Legal Assistance Items

From: Legal Assistance Office, OTJAG

SOUTH DAKOTA VIETNAM BONUS APPLICATION DEADLINE IS OCTOBER 1. The South Dakota Vietnam Veterans Bonus Board reports that the deadline for bonus applications to that state is Oct. 1, 1973. Some 4,000 South Dakota vets (most of them still on active duty) are eligible for the bonus. Under South Dakota law, servicemen must have had duty in Vietnam between July 1958 and August 6, 1964 or must have had at least 90 days of armed forces active duty between August 5, 1964, and April 1, 1973, in addition to being a legal resident of South Dakota for six months preceding entry into service. As of July 1973, certain disabled South Dakota Vietnam vets may collect the maximum bonus without regard to a time period. Also, surviving dependents may be paid. For complete information and application forms write to: *Director of the South Dakota Veterans Department, Old Post Office Building, Pierre,*

South Dakota 57501 or contact County Veterans Service Officers in the state.

NORTH DAKOTA LEGISLATURE LIMITS ITS VIETNAM VETERANS BONUS. The 1973 North Dakota Legislative Assembly set January 28, 1973 as the closing date for the North Dakota Vietnam Veterans Adjusted Compensation (Bonus) for its eligible vets. The bonus opening date was August 5, 1964. Maximum payment is \$1,600. Monthly payment rates for the period noted is \$12.50 for domestic service, \$17.50 for foreign service. Beneficiaries of vets killed in action or who died in service within the bonus period will be paid a minimum of \$600. Deadline for receipt of applications is three years from January 28, 1973, except for POW-MIA's who have three years from the date they set foot on U. S. soil after January 28, 1973. Completed applications should be sent to *Adjusted Compensation Division, Box 1817, Bismarck, North Dakota*

58507. Requests for application blanks may be made to that office or to *North Dakota American Legion State Headquarters, Box 2666, Fargo, North Dakota 58102.*

ELEVEN STATES HAVE VIETNAM BONUSES. Eleven states now offer bonus payments to their Vietnam era veterans. They are: Connecticut, Delaware, Illinois, Louisiana, Massachusetts, North Dakota, Pennsylvania, South Dakota, Vermont, and Washington. Indiana is in the process of reading details of its Vietnam bonus plan.

Voting Information — Fact Sheet

MARYLAND—Special election will be held 21 August to fill the vacant First Congressional District seat formerly held by U. S. Representative William O. Mills, State election officials have announced.

Thirteen counties make up Maryland's First Congressional District. These are Calvert, Caroline, Cecil, Charles, Dorchester, Harford, Kent, Queen Anne's, St. Mary's, Somerset, Talbot, Wicomico, and Worcester.

Qualified voters from any of the above counties may request an absentee ballot for the special election. The following persons may request a ballot by using the Federal Post Card Application (FPCA-Standard Form 76):

—Members of the Armed Forces and their spouses and dependents.

—Any officer or member of the crew of any vessel documented under U. S. laws or enrolled for such employment with the Federal Government, and his spouse and dependents.

—A civilian employee of the U. S. serving outside the United States, and his spouse or dependents.

—Any person serving with the American Red Cross, the Society of Friends, Women's Auxiliary Service pilots, and the United Service Organizations (USO), who is attached to or serving with the U. S. Armed Forces out-

side the United States, and his or her spouse or dependents.

—Any citizen and resident who is continuously absent from his county of residence for 30 days prior to close of registration before any election (provided that his ballot application is received by his Board of Supervisors of Elections four weeks before the election).

The completed FPCA should be sent to the Board of Supervisors of Elections at the county seat of the individual's home county. While election officials will accept ballot applications up to and including 13 August, voters are encouraged to mail FPCAs early enough to obtain their ballots, vote them, and return them to election officials before the polls are closed on election day—21 August.

NEW MEXICO—Seven proposed amendments to the State Constitution will be voted upon by New Mexico's voters in a special election to be held 6 November, according to State election officials.

The amendments were proposed by the State Legislature during its 1973 session, and are entitled as follows:

—Constitutional Amendment (CA)-1. Qualifications for Holding Public Office and Voting.

—CA-2. Property Tax Veteran Exemption.

—CA-3. Recall Election of Local School Board Members.

—CA-4. Voter Qualifications.

—CA-5. Board of County Commissioners (A Class County).

—CA-6. Property Tax Exemption, Property in Interstate Commerce.

—CA-7. County Officers, Terms and Maximum Age.

For adoption, each proposed amendment (with the exception of CA-4) must be ratified by a majority of the State's electors

voting on the question. CA-4, however, must be ratified by at least three-fourths of the State's electors voting on the question.

The following people, who are qualified to vote in New Mexico, may vote on these proposals:

—Members of the Armed Forces in active service and their spouses and dependents.

—Members of the U. S. Merchant Marine and their spouses and dependents.

—U. S. citizens temporarily residing outside the territorial limits of the United States and their spouses and dependents when residing with or accompanying them.

A qualified voter who wishes to vote on New Mexico's proposed amendments should send a completed Federal Post Card Application (FPCA) to the County Clerk at the county seat of his home county, requesting a special election ballot. If the voter is not registered, submission of the FPCA will afford him temporary registration for that special

election only. Permanent registration may be effected by requesting a registration form from the County Clerk, completing it, and returning it prior to 30 days before the election.

Voters from New Mexico who are interested in the arguments for and against the proposed amendments may request a copy of "Constitutional Amendments Proposed By The 1973 Legislature And Arguments For And Against" from the New Mexico Legislative Council Service, 334 State Capitol, Santa Fe, New Mexico 87501.

Any application (FPCA or letter) requesting that an absentee ballot be mailed to an address outside the continental limits of the United States will be accepted by New Mexico's election officials *not less than 28 days before* date of election. Requests for ballots to be mailed to an address within the continental limits of the United States will be accepted *not less than 10 days before* date of election.

Military Justice Items

From: Military Justice Division, OTJAG

The Office of The Provost Marshal General has reported a problem in the disposition of certain prisoners at the United States Disciplinary Barracks because of the length of time required to receive the records of trial and promulgating orders. Prisoners who are transferred to the USDB are classified as being in a detained status until such time as the confinement facility is notified of the convening authorities' actions in the respective cases. While the prisoners are in such detained status, they are not eligible to be considered for restoration, clemency, parole, or other ameliorative actions. In addition, the institutional

correctional treatment programs of these prisoners are likewise seriously impeded by the lack of information concerning the circumstances of the confining offenses. Staff judge advocates should insure that all reasonable efforts are made to expedite the preparation of the records of trial and the actions of the convening authorities in such cases. According to information furnished by the Office of The Provost Marshal General, as of 10 May 1973, there were 306 prisoners in a detained status at the USDB, 31 of which had been in such status for more than 90 days.

Reserve Affairs Notes

From: Assistant Commandant For Reserve Affairs, TJAGSA

1. JAGC RESERVE COMPONENTS GENERAL STAFF COURSE—FY 74. The JAGC

Reserve Component General Staff Course for FY 74 is now open for enrollment.

Officers eligible for enrollment are required to be members of the Ready Reserve (U.S. Army Reserve or Army National Guard), have branch assignment to JAGC, and hold the grade of major or higher. A further requirement is completion of a JAGC Advanced Course (resident, extension or USAR School). Ineligible for enrollment are officers who have completed the Command and General Staff College Course, or who have completed a minimum of either Phases I, II, III and IV or Subcourses 1 through 11 of the Command and General Staff College Course. Officers who have completed Phases I, II, III and IV or Subcourses 1 through 11 of the Command and General Staff College Course may apply for equivalent credit for the JAGC Reserve Components General Staff Course. These officers are, however, strongly encouraged to complete the entire Command and General Staff College Course.

There are only minor changes to the 1974 JAGC Reserve Components General Staff Course curriculum. The course consists of an 88-hour nonresident phase and an 80 hour resident phase. Completion of the entire nonresident phase is a prerequisite for attendance at the resident phase to be given in the summer of 1974. Only those officers who can attend the resident phase during the summer of 1974 should apply.

Application for the nonresident phase of the JAGC Reserve Components General Staff Course should be made on DA Form 145, and forwarded through the applicant's headquarters to the Commandant, The Judge Advocate General's School, Attention: Assistant Commandant for Reserve Affairs, Charlottesville, Virginia 22901.

Details about the resident phase—to include dates, sites, and application information—will be announced in a subsequent issue of *The Army Lawyer*.

2. "ONE ARMY" RECRUITING—A NEW PROGRAM. As part of OTJAG's recruiting

effort a Reserve/National Guard Judge Advocate Liaison Program has been developed and approved by The Judge Advocate General to improve the channels of communication between the law schools throughout the country and the JAG Corps in general. The purpose of the program is to establish a point of contact between every law school in the country and a Reserve Component Judge Advocate in the local area. The Reserve Component JAG officer should be able to make himself available to provide the dean, faculty members, and law students with information on the Judge Advocate General's Corps, either active or reserve.

Commanders of headquarters detachments and Staff Judge Advocates of other Reserve Component units are requested to solicit officers in their detachments and units in areas where law schools are located especially those who are most familiar with the requirements for appointment to JAGC, pay, etc., and forward their names to the Assistant Commandant for Reserve Affairs, TJAGSA, Charlottesville, Virginia 22901. Other interested unit and non-unit Reserve Component Officers are also encouraged to apply. Those officers selected will receive additional information and guidance.

3. Legal Aid Program Participation. An interim Change 1 to AR 140-14 (R 021926Z, Jul 1973) adds the following paragraph:

"5X. Legal Aid Programs. A commander of a Judge Advocate General Service Organization Detachment or a commander of a troop program unit authorized a Staff Judge Advocate section may request approval from The Judge Advocate General for his unit to participate in legal aid programs sponsored by the local bar association, Legal Aid Society, or similar organizations. Approval is contingent upon the program's providing mission-oriented training required for the maintenance of the technical proficiency of the unit."

The above change is effective immediately and will be reflected in a forthcoming change to AR 140-4.

JAG School Notes

1. Basic and Advanced Classes. After a busy summer of continuing legal education courses, the School will begin an active fall semester with very large basic and advanced classes. The Advanced Class of thirty-four Army officers, five Marine officers, one Navy officer and three allied officers will be the same size as the 21st Advanced Class and certainly taxes the facilities of the advanced classroom in Clark Hall.

The 69th Basic Class now looks to be over ninety in number. The Commandant welcomed the first thirty-two members of that class to Phase I training at Fort Gordon on 16 July. Forty-eight other Army captains will join the class when it arrives at Charlottesville on 13 August. Twenty-seven of these Army officers are excess leave officers. Nine Coast Guardsmen will also be in the class as well as two Iranian judge advocates.

The 70th Basic Class which will begin in late October and run until just before Christmas looks to be about a hundred in number. This class will particularly task the facilities of the School because the class will come directly to Charlottesville and the administrative processing will be the responsibility of the School. These large classes do mean, however, that a great number of new judge advocates will be in the field by the first of the year.

2. Continuing Legal Education Courses. The Continuing Legal Education courses for this summer have all been oversubscribed. The Military Judge Course again had representatives from all five of the Armed Services as well as from reserve units. This again is an

indication that Charlottesville is the "Home of the Military Lawyer." All teaching divisions are presenting one of more classes this summer, keeping the faculty well occupied.

3. New Building. The work on the new building on Copeley Hill continues at a rapid pace. The site can be visited by continuing up Arlington Boulevard into a wooded area behind the Barracks Road Shopping Center.

4. Thai TJAG. The Judge Advocate General of the Thai Armed Forces, Lieutenant General Sming Tailangka and his aide Lieutenant Coochcert Suksa-Nguan were guests at The Judge Advocate General's School in early July. General Sming had an opportunity to be oriented on the various courses presented in Charlottesville and receive a number of the publications. This visit gave the School an opportunity to personally thank General Sming for the presentation of a set of brass candlesticks from the Judge Advocates of the Thai Army to this School. A group of seven Vietnamese Judge Advocates are visiting the United States and will tour the School in late August.

5. Advanced Class Gift. The 21st Advanced Class gave a lasting gift to the School in the form of a gift certificate for \$115.00 to purchase trees to landscape the center court of the new building when it is completed. The gift included a brass plaque which has at this time been framed and hung on the wall at the present School to be held until time to make the purchase of the trees at the new site.

TJAGSA - Schedule of Resident Continuing Legal Education Courses 1 August 1973 to 30 August 1974

Number	Title	Dates	Length
5F-F11	56th Procurement Attorney	6 Aug - 17 Aug 73	2 wks
5F-F1	15th Military Justice	13 Aug - 24 Aug 73	2 wks
5F-F1	Administration Phase	13 Aug - 17 Aug 73	1 wk
5F-F1	Trial Advocacy Phase	20 Aug - 24 Aug 73	1 wk
5F-F8	12th Senior Officer Legal Orientation	5 Sep - 7 Sep 73	3 days
5F-F10	9th Law of Federal Employment	1 Oct - 5 Oct 73	1 wk

Number	Title	Dates	Length
5F-F8	13th Senior Officer Legal Orientation	17 Oct - 19 Oct 73	3 days
5F-F13	4th Litigation and Environmental Law	29 Oct - 2 Nov 73	1 wk
5-27-C8	21st JA Reserve Component Field Grade Officer Refresher	5 Nov - 16 Nov 73	2 wks
5F-F11	57th Procurement Attorney	3 Dec - 14 Dec 73	2 wks
5F-F7	1st Reserve Senior Officer Legal Orientation	5 Dec - 7 Dec 73	3 days
5F-F12	4th Procurement Attorney, Advanced	7 Jan - 18 Jan 74	2 wks
512-71D20/40	3d Civil Law Paraprofessional	14 Jan - 18 Jan 74	1 wk
512-71D20/40	2d Criminal Law Paraprofessional	14 Jan - 18 Jan 74	1 wk
5F-F2	12th Civil Law II	4 Feb - 15 Feb 74	2 wks
5F-F2	Personnel and Admin Law Phase	4 Feb - 8 Feb 74	1 wk
5F-F2	Legal Assistance Phase	11 Feb - 15 Feb 74	1 wk
7A-713A	4th Law Office Management	4 Mar - 8 Mar 74	1 wk
5F-F10	10th Law of Federal Employment	11 Mar - 15 Mar 74	1 wk
5F-F3	18th International Law	11 Mar - 22 Mar 74	2 wks
5F-F8	14th Senior Officer Legal Orientation	25 Mar - 27 Mar 74	3 days
5F-F11	58th Procurement Attorney	8 Apr - 19 Apr 74	2 wks
5F-F13	5th Litigation and Environmental Law	29 Apr - 3 May 74	1 wk
5F-F6	4th Staff Judge Advocate Orientation	6 May - 10 May 74	1 wk
5F-F1	16th Military Justice Administration Phase	13 May - 24 May 74	2 wks
5F-F1	Trial Advocacy Phase	13 May - 17 May 74	1 wk
5F-F1		20 May - 24 May 74	1 wk
5F-F9	13th Military Judge	10 Jun - 28 Jun 74	3 wks
5F-F14 *	3d Judge Advocate Overseas Operations	17 Jun - 21 Jun 74	1 wk
5F-F8	15th Senior Officer Legal Orientation	22 Jul - 24 Jul 74	3 days
5F-F5	11th The Law of War and Civil-Military Operations	22 Jul - 2 Aug 74	2 wks
5F-F11	59th Procurement Attorney	29 Jul - 9 Aug 74	2 wks
5F-F5	14th Civil Law I	5 Aug - 16 Aug 74	2 wks
5F-F5	Law of Military Installations	5 Aug - 9 Aug 74	1 wk
5F-F5	Claims	12 Aug - 16 Aug 74	1 wk

* For Active Army under orders to foreign areas.

Personnel Section

From: PP&TO, OTJAG

1. RETIREMENTS: On behalf of the Corps, we offer our best wishes to the futures to the following officers who retired after many years of faithful service to our country.

BG Bruce C. Babbitt	30 June 1973
COL David M. Chase	30 June 1973
COL Richard G. Garties	30 June 1973
COL Warren L. Taylor	30 June 1973
COL Madison C. Wright	30 June 1973

2. PROMOTIONS: Congratulations to the following officers who were promoted on the dates indicated:

COL Frank J. Dorsey	22 June 1973
COL Richard S. Hawley	27 June 1973
COL Darrell L. Peck	28 June 1973
LTC Jack Mullins	14 June 1973
LTC Enrest A. Simon	14 June 1973
LTC Louis F. Musil	29 June 1973

MAJ Henry J. Armstrong	11 June 1973	MAJ Herbert J. Green	13 June 1973
MAJ Larry G. Berry	13 June 1973	MAJ Jack F. Lane, Jr.	13 June 1973
MAJ Dennis M. Corrigan	13 June 1973	FROM: PP&TO	
MAJ Robert A. Demetz	12 June 1973	MAJ John J. Nichols	13 June 1973
MAJ John Fredenberger	13 June 1973	MAJ Warren P. Taylor	12 June 1973
MAJ William O. Gentry	13 June 1973	MAJ Paul Weinberg	13 June 1973
MAJ Dewey C. Gilley, Jr.	13 June 1973	MAJ Mary Lou Bosiljevac	13 June 1973
MAJ Richard J. Goddard	13 June 1973		

3. ORDERS REQUESTED AS INDICATED:

Name	From	To
------	------	----

COLONELS

MINIS, Carol E.	OTJAG	USATC Ft Eustis, VA
ZEIGLER, William	USAWC	Korea

LIEUTENANT COLONELS

STARR, Irving	USAG FT Hamilton, NY	Army Cncl Rv Bd, Pentagon
---------------	----------------------	---------------------------

MAJORS

COLE, Raymond D.	USAG Ft Leavenworth, KS	Stu Det CGSC
CREEKMORE, Joseph	Stu Det, Ft Myer, VA.	OTJAG
FOREMAN, LeRoy	USA ADC Ft Bliss, TX	USAG Ft Hamilton
MURRAY, Robert E.	USAG Ft Leavenworth, KS	STU Det CGSC

CAPTAINS

ASHBY, Richard J.	18th Abn Cps Ft Bragg, NC	USA Leg Svcs, Falls Church, VA.
BOREK, Theodore B.	USAG Ft Huachuca, AZ	USAREUR
BRODIE, Michael	OTJAG	22d Adv Class, TJAGSA
BROOKS, Clifford	OTJAG	S-F, TJAGSA
BRUKE, Michael A.	COORD Elm North, Ft Sheridan, IL	Stu Det, TJAGSA
CANNON, Robert C.	Ann Dep, Anniston, AL	S-F, TJAGSA
COFER, David T.	Phys Dis Agcy, WRAMC	Letterman General Hospital
DARLEY, Roger G.	FA S&F Ft Sill, OK	USA Fld Arty, Ft Sill, OK
DAVIDSON, Anstruther	2d Inf Div Korea	USAREUR
DURDEN, Chauncey	Agy USA OT & Ft Belvoir, VA	USAEC, Ft Belvoir, VA
FOX, Timothy	2d Inf Div Kores	Phy Dis Agcy, Wash, DC
GRIFFITH, Robert	White Sands, NM	Hawaii
HANSEN, Donald L.	USATC Ft Eustis, VA	DLI, Monterey, Press of SF
HANSON, Mahlon	Oakland AT	USAG Ft Sheridan, IL
HEINTZ, Richard	USAG Ft S. Houston, TX	22d Adv Class, TJAGSA
HOLMES, J. E., II	USAREUR	Hq WA MTMTS, Oakland, CA
HUNT, Arthur	COORD Elm North Ft Sheridan	USAG Ft Sheridan, IL
JONES, Hugh J.	USAREUR	9th Inf Div, Ft Lewis, WA
LANE, Michael H.	USAREUR	3d Region Ft McPherson, GA
MARKLAND, Richard	Valley Forge General Hospital	USA Svn Sys Com St Louis, Mo
MCELMEEL, Thomas	2d Inf Div Korea	USAG Presidio of SF
NAGLE, Kenneth R.	VII Corps	USAAC, Ft Knox, KY
OCONNOR, Charles	Hq 6th USA	Letterman General Hospital
OTA, Ed K.	USAADC Ft Bliss, TX	USAREUR
RHODES, Robert C.	36 CACO	USATC Ft Jackson, SC
RIVEST, Joseph	USATCI Ft Dix, NJ	S-F USMA
SANO, Joseph J.	USATCI Ft Ord, CA	USAREUR
TAYLOR, Warren H.	Stu Det Ft Myer, VA	S-F TJAGSA
VICKERY, Arnold	Hq 5th USA Ft S. Houston, TX	Ofc Gen Counsel, Wash, DC
WILLIAMS, Steven	USAAC Ft Knox, KY	WSMR, Garrison, WS, NM

Name

From

To

WARRANT OFFICERS

BETTERIDGE, Kendall
CAMIRE, Walter
STIMLER, Walter J.

AGCO Admin Ft Hood, TX
USAG Ft Meade, MD
USAG Ft Meade, MD

Korea
USAREUR
USAREUR

4. WHITE HOUSE FELLOWS PROGRAM:

The White House Fellows Program offers a unique career opportunity for a young person between the ages of 23 and 36 years. Each year the President's Commission on White House Fellows selects approximately 15-20 individuals from industry and the military to serve for a one year period as special assistants on the White House staff or with cabinet officers. These gifted and highly motivated young Americans gain some firsthand experience in the process of governing the Nation and a sense of personal involvement in the leadership of the society. Since the program began in 1965, 12 Army officers have been chosen as White House Fellows.

Competition for the 1974-1975 program begins on 15 August 1973. Army personnel desiring to participate in this program must first request permission (through channels)

to compete, in accordance with AR 621-7, "Acceptance of Fellowship, Scholarships, or Grants," 1 July 1969. Upon receiving approval to compete from Headquarters, Department of the Army, individuals should submit their White House Fellows application directly to the Commission on White House Fellows, The White House, Washington, D. C. 20500. Official application forms and full particulars may be obtained by writing to the Commission on White House Fellows. The deadline for the submission of applications to the Commission for the 1974-1975 program is 15 November 1973. Final selection of winners for the White House Fellowships will be made in May 1974. The year long (1974-1975) Fellowship begins in September 1974. Interested Army personnel are encouraged to submit their "request to compete" to DA by 15 October 1973.

5. AWARDS: Congratulations to the following who received awards as indicated:

SGM Fred M. Lamm	Legion of Merit	Dec 71 - Jul 73
MAJ Raymond C. McRorie	Meritorious Service Medal	9 Sep 70 - 20 Jul 73
MAJ Louis F. Musil	Joint Service Commendation Medal	15 Jul 71 - 15 Jun 73
CPT Stephen T. Daniel, Jr.	Meritorious Service Medal	Oct 71 - Jun 73
CPT Kent W. Fanning	Army Commendation Medal	7 Sep 71 - 3 Jul 73
CPT John A. Odierna	Army Commendation Medal (1st OLC)	Jun 71 - May 71
CPT Edward H. Myer	Army Commendation Medal	25 May 69 - 24 May 73
CPT Martin C. Recchuite	Army Commendation Medal (1st OLC)	22 Sep 72 - 1 Aug 73
CPT James H. Heffernan	Army Commendation Medal	10 Oct 71 - 14 Jun 73
CPT Peter F. Staiti	Army Commendation Medal (1st OLC)	15 Dec 71 - 13 May 73
CPT Gary W. Lucas	Army Commendation Medal	15 Aug 70 - 11 Jan 72
CPT Howard M. Spizer	Meritorious Service Medal	1 Jun 71 - 8 Feb 73
CPT Henry D. De Berry	Meritorious Service Medal	1 Jun 69 - 11 Dec 72
CPT Gordon F. Bailly	Army Commendation Medal	5 Jan 70 - 19 Aug 73
CPT Richard M. Graybill	Army Commendation Medal	Mar 72 - Jun 73
CPT Raymond M. Ripple	Army Commendation Medal	2 Jan 72 - 27 Jun 73
CPT Thomas G. Parachini	Army Commendation Medal (1st OLC)	Jul 72 - Jul 73
CPT Dennis R. Williams	Army Commendation Medal (wd OLC)	17 Jun 71 - 30 Jun 73
LTC David L. Minton	Meritorious Service Medal	Jul 72 - Jul 73
CPT Michael L. Gibson	Army Commendation Medal	Jun 72 - Jun 73
CPT Richard B. Johns	Joint Service Commendation Medal	Jul 72 - Jul 73

6. HELP WANTED ADS

a. There are still positions available for officers with at least eighteen months' service

at the Appellate Divisions of the Legal Services Agency. Interested officers contact CPT Crean, PP&TO.

b. There are positions available for officers interested in an accompanied three year tour to Europe. Even though the dollar has been devalued and the cost of living a little higher in Europe, it is still a great tour. The work is professionally challenging, the camaraderie with other JAGs outstanding, and the opportunity to travel still abounds. Interested officers call CPT Crean, PP&TO.

c. Civilian Attorney Vacancy

Position

Attorney Advisor, 905-15
(General)

Location

Office Assistant Comptroller,
Fiscal Policy
The Pentagon, Washington, DC

Individuals interested in above position please submit Standard Form 171 to Personnel, Plans and Training Office (DAJA-PT) Office of the Judge Advocate, DA, Washington, D. C. 2-310 ASAP.

7. CIVILIAN ATTORNEY POSITIONS AND APPOINTMENT

1. The Judge Advocate General must be advised promptly of all vacancies in civilian attorney positions under his jurisdiction, whereupon applications on file in Personnel, Plans and Training Office are forwarded to the activity having the vacancy for consideration along with those received through local recruitment. The activity concerned has the responsibility of selecting the best qualified applicant for the position, and thereafter, The Judge Advocate General determines if the applicant is professionally qualified. Before approval authority is granted to effect an appointment, the appointing officer of the activity concerned will forward the following documents to the qualifying authority, HQDA (DAJA-PT):

a. Letter requesting authority to effect the action.

b. Standard Form 171 of the individual selected.

c. Official certificate showing that the applicant is a member in good standing at the bar with official statement that his fitness to practice law or his conduct as an attorney has never been challenged.

d. Official transcript of the applicant's law school record together with an official statement of his relative standing in his class, if obtainable.

e. Written evaluation of the professional qualifications of the selectee by the appropriate Staff Judge Advocate, Counsel, or Legal Officer having supervisory authority over the position, setting forth the basis for the selection of the individual recommended.

f. Copy of Job Description (DA Form 374)

g. References (at least three whom must be members of the bar - DD Form 556 may be used).

2. For promotion or reassignment, all that is necessary is to forward to Personnel, Plans and Training Office, a written evaluation from the Staff JA, Counsel, or Legal Officer, and a copy of the job description for the position to which promotion or reassignment is recommended.

3. The above procedures must be followed if attorney positions are to be filled expeditiously. Questions will be answered by PP&TO (Miss Beckley, Autovon 225-1353).

8. The following guidance has been received from the Military Personnel Center:

"Visits and Calls to Department of the Army. Some personnel whose names are listed as nonselectees in DA Circulars 624-37, 624-41, and 624-42 have visited or called Department of the Army seeking information concerning specific reasons for nonselection. Since such visits or calls can involve considerable personal expense to the individuals concerned, it is desirable to assure that personnel are made aware of the provisions of paragraph 7-48c, AR600-200. Promotion Selection Boards do not record the reason(s) why a soldier is not recommended for promotion. The conclusion

which must be furnished in response to all questions concerning non-recommendation for promotion is that "when compared to all persons considered by the Board, the non-selected persons were considered less qualified for promotion within their respective career management fields than those who were recommended." Commanders and personnel officers should not encourage individuals to visit or call Department of the Army for the sole purpose of seeking specific reasons for their nonselection for promotion; such information cannot be provided because it is not available. Persons in grades E-6 through E-8 are encouraged to review their Official Military Personnel File (OMPF) which is used in the promotion process. Review of the OMPF may be accomplished in accordance with paragraph 1-16, AR 640-10."

9. Requisitions. The Enlisted Personnel Directorate, Military Personnel Center, has advised PP&TO that insufficient requisitions are being submitted for legal clerks and court-reporters. As an example, there were no requisitions available to assign the court-reporters who graduated from the Naval School of Justice in June 1973. Those court-reporters were assigned based on requirements that were known to PP&TO. Those responsible are encouraged to insure that requisitions are submitted in a timely fashion. Close coordination must be maintained with your local Adjutant General Office. Those requisitions that are not filled and are automatically cancelled must be resubmitted by local commands.

10. Personnel: Stenotype Court Reporter Training at Civilian Institutions. Plans are nearing completion in OTJAG for the implementation of a DA fully funded stenotype court reporter training program at CONUS civilian court reporting schools for male and female personnel with PMOS/SMOS 71D or 71E under the provisions of Chapter V, AR 621-1, 8 September 1972. A full-time, day, 12-month course of instruction will be conducted on an intensified "crash program" basis at stenotype court reporting schools whose curricula and standards have been

approved by the National Shorthand Reporters Association and who have agreed to provide such a "specialized" program to U.S. Army personnel. Maximum study will be concentrated on the development of proficiency on the stenotype/stenograph machine from basic theory to court reporting competency (175-200 words per minute) along with attendant typewriting transcription skill within the one-year time frame.

Present plans call for only a limited number of personnel to engage in stenotype court reporter training at this time. Dependent upon the successful outcome of the program, the number of individuals authorized to attend this training will be increased during the next two years. Personnel selected for attendance will incur a service obligation of three months for each month of schooling, with a minimum of 36 months on active duty as a stenotype court reporter.

Only highly motivated military personnel who have demonstrated a keen interest in becoming a stenotype court reporter will be selected for attendance at this course. Besides meeting the eligibility criteria set forth in paragraph 5-2, AR 621-1, applicants will be carefully screened by a staff judge advocate or senior JAGC officer to determine their suitability for undergoing this training and potential as a stenotype court reporter.

The attainment of the requisite stenotype court reporting skill (175-200 words per minute) will require a *maximum expenditure* of the student's time and effort during the 12-month training period. Applicants must be prepared to devote a considerable amount of their personal and leisure time to a rigorous course of study and practice in stenotype court reporting.

Upon completion of the 12-month course, students will be encouraged to continue court reporter training, at their own expense, during off-duty hours at either a reporting school or by self-education, consistent with their military assignment. If possible, every effort should be made to qualify for the cer-

tificate of Certified Shorthand Reporter which is granted by ten states.

Further details describing stenotype court reporter training will be formally announced in a DA message and in a future issue of *The Army Lawyer*. Inquiries to PP&TO, OTJAG, should be withheld pending this announcement.

11. MOS Tests. The 1973 MOS testing period for 71D20, 71D50 and 71E is scheduled for August 1973. Study guides were distributed to the field in May 1973. Individuals scheduled for testing should use the Appendix of the study guide as a reference to prepare for the test. As a matter of interest, MOS test questions were selected from those Sec-

tions and Chapters mentioned under "References" in the Appendix to the study guides.

Supervisory personnel are requested to encourage the adoption of group study periods within the daily office schedule, to afford those going to be tested a period to better prepare themselves for the test. Score results can have an influence on an individual's future for promotion.

12. LTG Hutchin Honored. On 20 July Major General Prugh presented a Scroll of Honor to Lieutenant General Claire E. Hutchin, Jr., Commanding General, First U. S. Army, on the occasion of his retirement, for the outstanding service and support he provided for judge advocates of all services and for his extraordinary service as an Army officer,

Current Materials of Interest

Articles

Lynch and Cretella, "The Military Judge: Military or Judge?" 9 Calif. Western L. Rev. 57 (1972). This article discusses the development of the military judge and his future role in military justice.

Mitchell and Tracy, "Terminations of Government Contracts: Recent Developments," 14 William & Mary L. Rev. 817 (1973).

Sherman, "Military Justice Without Military Control," 82 Yale L. J. 1398 (1973). Discusses the issue of command participation in military justice through a comparison with foreign military law systems.

Note, "The Unconstitutional Burden of Article 15," 82 Yale L. J. 1481 (1973). This article contends that Article 15 fails to meet the standards of due process.

Note, "The Equal Rights Amendment and the Military," 82 Yale L. J. 1533 (1973). Discusses the impact of ERA on military practices.

Note, "Security Clearances for Homosexuals," 25 Stanford L. Rev. 404 (1973).

By Order of the Secretary of the Army:

CREIGHTON W. ABRAMS
General, United States Army
Chief of Staff

Official:

VERNE L. BOWERS
Major General, United States Army
The Adjutant General